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EXAMINER

JOHNSON, JERROLD D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/810,622

Applicant(s)

LI, HUNG-YU

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4,5,6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 "the aperture" is confusing, as there have previously been claimed a "plurality of rows of apertures". Additionally, the aperture itself should be defined by the structure that forms it, as the aperture itself is the absence of structure. Accordingly, the proper claim language would be the "aperture is defined by a slanted ..." Furthermore, the claim ends abruptly with fluid in a confusing manner. Correction is required.

Claim 5, again "the aperture" as in claim 4, and again, an aperture cannot be upright, the structure which defines it, however, can be upright.

Claim 6, "cones" have not yet been set forth in the claims. Additionally, "flush" would be better served by "flush with each other" as currently there is no explanation in the claims as to with what the apexes are flush.

Claim 7 is confusing. The height of the innermost rows does not increase, as is claimed. The height of the cones increases from the innermost rows to the outermost rows.

Correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1-3,5,6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Benoto US D137,908.

Re claim 1, Huxtable discloses and open first container that is capable of supporting a second container. The first container of Huxtable does not disclose the second container nor a plurality of slits.

Gruendl discloses a soap dish comprising a plurality of parallel slits, so as to allow water to drain through the bottom of the container.

Smith discloses the known use of a second container configured for supporting a bar of soap fitted within a first container.

Benoto discloses a second container capable of being fitted in the first container, the second container including a plurality of rows of tapered projections on a bottom, the rows of projections being adapted to support a soap, and a plurality of rows of apertures each row of apertures being disposed between two adjacent rows of projections, wherein water stored in the second container is adapted to carry off through the rows of apertures by passing the projections, and outside air is adapted to reach the soap via the rows of apertures.

It would have been obvious at the time of the invention to one of ordinary skill in the art to have provided the open first container of Huxtable with parallel slits as taught by Gruendl so as to provide drainage of water from the first container. It further would have been obvious to combine the first container of Huxtable in view of Gruendl with a second container as taught by Smith so as to elevate a bar soap off of the first container and maximize air flow around the bar of soap, as well as to provide the user of the containers with greater ease of cleaning the containers. It further would have been obvious to provide a second container with interspersed rows of projections and apertures as taught by Benoto so as to maximize air flow around the soap bar, as well as for enhanced esthetics.

Re claim 2 and 3, although it is unclear if Smith discloses the first and second containers being integral or separable, it would be obvious to one of ordinary skill in the art to make them in either manner. Making them integral, such as either by adhesive attachment or through a unitary manufacture would minimize the possibility that the second container could fall from the first container or be inadvertently stuck to a soft bar

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of soap. Making them separable would enhance the ability to remove the second container for cleaning.

Note MPEP 2144.04 which sets for the PTO examination guidelines on the issues of making separable and making integral. In most situations, such as in the current application, making integral or separable are within the purview of a skilled artisan.

Re claim 5, the apertures of Benoto are upright, or more accurately, the walls defining the apertures are upright.

Re claim 6, the apexes of Benoto are flush with each other.

Re claim 8, note raised pads on the bottom surface on Benoto.

2. Claims 1,2,3,5,6,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549.

Re claim 1, Huxtable discloses an open first container that is capable of supporting a second container. The first container of Huxtable does not disclose the second container nor a plurality of slits.

Gruendl discloses a soap dish comprising a plurality of parallel slits, so as to allow water to drain through the bottom of the container.

Smith discloses the known use of a second container configured for supporting a bar of soap fitted within a first container.

Greenhut discloses a second container capable of being fitted in the first container, the second container including a plurality of rows of tapered projections on a bottom, the rows of projections being adapted to support a soap, and a plurality of rows of apertures, wherein water stored in the second container is adapted to carry off through the rows of apertures by passing the projections, and outside air is adapted to reach the soap via the rows of apertures.

Greenhut does not disclose that each row of apertures being disposed between two adjacent rows of projections.

Evans discloses each row of apertures being disposed between two adjacent rows of projections.

It would have been obvious at the time of the invention to one of ordinary skill in the art to have provided the open first container of Huxtable with parallel slits as taught by Gruendl so as to provide drainage of water from the first container. It further would have been obvious to combine the first container of Huxtable in view of Gruendl with a second container as taught by Smith so as to elevate a bar of soap off of the first container and maximize air flow around the bar of soap, as well as to provide the user of the containers with greater ease of cleaning the containers. It further would have been obvious to provide a second container with projections and apertures as taught by Greenhut so as to maximize air flow around the soap bar, and to have interspersed rows of projections with rows of apertures as taught by Evans so as to provide enhanced esthetics.

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Re claim 2 and 3, although it is unclear if Smith discloses the first and second containers being integral or separable, it would be obvious to one of ordinary skill in the art to make them in either manner. Making them integral, such as either by adhesive attachment or through a unitary manufacture would minimize the possibility that the second container could fall from the first container or be inadvertently stuck to a soft bar of soap. Making them separable would enhance the ability to remove the second container for cleaning.

Note MPEP 2144.04 which sets for the PTO examination guidelines on the issues of making separable and making integral. In most situations, such as in the current application, making integral or separable are within the purview of a skilled artisan.

Re claim 5, the apertures of Greenhut are upright, or more accurately, the walls defining the apertures are upright.

Re claim 6, the apexes of Greenhut are flush with each other.

Re claim 8, note raised pads on the bottom surface on Greenhut (additional projections).

Re claim 9, the projections are cones.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549, and further in view of White US D193,085.



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Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549 does not disclose apertures comprising slanted annular top surfaces and lower upright channels, i.e. chamfered apertures.

White discloses slanted annular top surfaces and lower upright channels, i.e. chamfered apertures.

Accordingly, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the soap dish of Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549 by providing chamfered apertures to enhance the drainage capability of the second container.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549, and further in view of Ackermann Swiss CH 657,826.

Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549 does not disclose the height of the cones increasing from the innermost rows to the outermost rows.

Ackermann, discloses that the height of soap supporting projections increase from an innermost position to an outermost position.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the soap dish of Huxtable US 5,178,353 in view of Gruendl US D83,439, Smith US D186,809, and Greenhut et al. US D312,740 and Evans US 3,019,549 by providing a the second container with a profile where the height of the cones increasing from the innermost rows to the outermost rows. This profile would accommodate the many soap bars which have a curved bottom surface, as is shown in phantom lines by Ackermann in Fig. 2.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reefe US D137,131 discloses projections at the innermost rows being shorter than that in the outermost rows, as well as rows of projections interspersed by apertures.

Welles US D107,889 discloses tapered projections interspersed with apertures.

Dworkin US 4,300,248 discloses a second container disclosed within a first container. The second container includes apertures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ

A handwritten signature in black ink, appearing to read 'Mickey Yu', with a stylized, flowing script.

Mickey Yu  
Supervisory Patent Examiner  
Group 3700

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